

**MINUTES**  
**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**UTAH WATER QUALITY BOARD MEETING**

168 North 1950 West  
Building 2, Room 101  
Salt Lake City, Utah  
**August 25, 2000**  
9:00 a.m.

**UTAH WATER QUALITY BOARD MEMBERS PRESENT**

K.C. Shaw, Chair  
Douglas E. Thompson  
Robert G. Adams  
John R. Cushing

William R. Williams, Vice Chair  
Nan W. Bunker  
Ray M. Child  
Neil Kochenour

**DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT**

Don Ostler, Faye Bell, Nancy Hess, Jay Pitkin, Tim Beavers, Fred Pehrson, Kim Shelly, J.D. McDonald, Harry Campbell, Jerry Jackson, Kiran Bhayani, Michael Hanson, Tom Toole, and Bryan Atwood.

**OTHERS PRESENT**

<u>Name</u>	<u>Organization Representing</u>
Pryor Harrell	Ashley Valley Sewer Management Board
Lanty Ross	Utah County Health Department
Russ Donoghue	Rural Water Association
Dave Cline	Kennecott
Sarah McIlroy	Stantec Consulting
George W. Bench	Fairview City Council
Kent Miner	Fairview City
Mayor Ronald Giles	Fairview City
Daron LeBlanc	Sunrise Engineering
John Iverson	Sunrise Engineering
Doug Nielson	Sunrise Engineering
John Whiting	Charleston Town Mayor
Bill Sinclair	DRC

Chairman Shaw called the meeting to order at 9:00 p.m. He welcomed those in attendance and invited the members of the audience to introduce themselves.

**APPROVAL OF MINUTES OF THE JULY 17, 2000 MEETING**

Chairman Shaw noted the following changes: 1) page 9, Item 6, the heading should be changed to indicate that the item was an action item, and not a first hearing; and 2) page 11, third paragraph, second sentence, the word *addition* should read *additional*. Mr. Child noted the following corrections: 1) page 11, first paragraph, last sentence, the word *resend* should be changed to read *rescind*; and 2) page 11, first paragraph, second sentence, the phrase "*He said that Nibley had a lot on potential...*" should read "*He said that Nibley had a lot of potential*". Ms. Bunker noted the following correction: 1) page 3, second paragraph, second sentence, the phrase "*He said during recent chances*" should read "*He said during recent changes*".

**Action Taken:**            **It was moved by Mayor Cushing, seconded by Mr. Child, and unanimously carried to approve the minutes of the July 17, 2000 meeting with the above noted corrections.**

**RULEMAKING ACTIONS**

1.    **Stormwater Phase II Final Rule** - Mr. Harry Campbell discussed the nature of the federal Phase II Stormwater Rules as outlined in a fact sheet under Tab 2 of the Board's packet. Mr. Campbell said that EPA finalized the Phase II rules in December of 1999. He said that as part of the state's primacy agreement with EPA for administration of the Utah Pollutant Discharge Elimination System (UPDES) program, Utah is required to adopt the new stormwater rules within one year of EPA adoption. Mr. Campbell distributed copies of the proposed changes to R317-8, UPDES rules (Attachment I). He discussed two major impacts of the proposed change: 1) the requirement that operators of small municipal separate storm water systems develop, implement and enforce a storm water management program; and 2) the requirement that operators of small construction facilities that disturb greater than one and less than five acres of land develop a storm water prevention plan. The Board and staff discussed several aspects of the proposed rule including its regulatory impact and staff resources needed for implementation.

**Action Taken:** **It was moved by Mr. Adams, seconded by Ms. Bunker and unanimously carried to authorize the staff to proceed with rulemaking on the proposed amendments to R317-8.**

2.    **UIC Class V Well Rule Change** - Mr. Jerry Jackson briefed the Board on the proposed changes as included under Tab 2 of the Board's Packet. Mr. Jackson gave the Board an overview of the Underground Injection Control (UIC) program. He said that Class V UIC wells are generally shallow dry wells or drainfields. Mr. Jackson said that the proposed changes are required to be adopted by the state under Utah's primacy agreement with EPA. He said that the rule addresses two classes of wells: 1) motor vehicle waste disposal wells; and 2) large-capacity cesspools. He said that the rule states that all new motor vehicle waste disposal wells and large-capacity cesspools are prohibited as of April 5, 2000. Existing large capacity cesspools must close by April 5, 2005. Mr. Jackson noted that EPA's rule contains

conflicting information on the permitting and closure requirements for existing motor vehicle waste disposal wells. He said that the current rule before the Board contains language which requires existing motor vehicle waste disposal wells to either close or *submit a UIC permit application* before a specified date. Other portions of the EPA rule indicate that these facilities must close or *obtain a permit* before a specified date. He said that the issue has not yet been resolved by EPA. Mr. Jackson discussed several other technical features of the proposed rule. Mr. Jackson said that the Division has until December 29, 2000 to incorporate equivalent state rules in order to maintain primacy of the program.

**Action taken:**                    **It was moved by Mr. Williams, seconded by Dr. Kochenour and unanimously carried to authorize the staff to proceed with rulemaking on the proposed changes to R317-7.**

3.    **R317-4, Onsite Wastewater Systems Rule; Percolation Test Requirements for Subdivision Feasibility** - Mr. Jay Pitkin outlined the issues surrounding the proposed amendment as outlined in a memorandum under Tab 2 of the Board's packet. Mr. Pitkin recalled that one of the changes made to the onsite rule earlier this year was to change the subdivision feasibility testing requirements from one percolation test per three acres to one test per lot. He said that following adoption, the change came to the attention of the legislature's Administrative Rules Review Committee (ARRC). The ARRC felt that the change was too restrictive and was better addressed at the local health department level. Mr. Pitkin said that staff discussed the issue with the local health departments and determined that there was not strong support for arguing the issue with the ARRC, but that there was general support for providing some waiver language for local health departments to allow fewer soil tests on a case-by-case basis. Mr. Pitkin referred the Board to page 2.25 of their packet for the proposed rule language. Mr. Child, Mr. Pitkin and Mr. Ostler had a discussion on the potential impacts of the proposed change.

Mr. Pitkin discussed an additional issue concerning footnote (a) in Table 2 of the rule (Attachment II). He said that the phrase "*and on the same property*" had been inadvertently added to the footnote during the last rulemaking action. Mr. Pitkin said that it was not highlighted as an addition during internal review and throughout the rulemaking action. He said that the phrase should not have been in the rule. The issue was brought to the staff's attention during a recent septic system installation review.

**Action Taken:**                    **It was moved by Mr. Adams, seconded by Mr. Williams and unanimously carried to authorize the staff to proceed with rulemaking on the proposed changes to R317-4.**

4.    **R317-1, Definitions and General Requirements; Secondary Treatment Requirements for Domestic Wastewater Treatment Facilities** - Mr. Tim Beavers briefed the Board on

the proposed rulemaking action as outlined in the memorandum under Tab 2 of the Board's packet. He said that over the past several years, communities with discharging wastewater treatment lagoons have contacted the staff with concerns about liability and risk stemming from the fact that their lagoons were at times exceeding permit limits due to algae blooms. Staff evaluated the performance of discharging domestic wastewater lagoons in the State and verified that a number of facilities are having problems meeting permit limits for Biochemical Oxygen Demand (BOD<sub>5</sub>) and Total Suspended Solids (TSS) caused by excessive algal growth. He said that staff has evaluated the issue in detail and is recommending proposed rule changes which would allow, on a case-by-case basis, alternative permit limits for BOD<sub>5</sub> and TSS for discharging domestic wastewater lagoons meeting the proposed criteria. Mr. Beavers discussed the technical details of the issue. He said that the proposed limits would not prevent facilities from achieving adequate disinfection and would not be out of line with what is being done in many other states. He noted that the impact on receiving streams would be negligible since discharging lagoons have been operating for years and there have not been any known water quality problems due to excess algae.

**Action Taken:**            **It was moved by Mr. Williams, seconded by Ms. Bunker and unanimously carried to authorize the staff to proceed with rulemaking on the proposed changes to R317-1.**

### **WASTEWATER LOAN PROGRAM**

1.    **Financial Assistance Status Report** - Ms. Nancy Hess directed the Board to Tab 3 of their packet and discussed the financial status of the Wastewater Assistance Program funds. She noted that on page 3.1, under funds receivable, the total for "Remaining SRF Grant LOC Draws" was understated by approximately \$3.3 million. The correct amount is \$5,273,000. This correction brings the total available and receivable funds to \$64,548,767.
  
2.    **Charleston Town's Request for Forgiveness of the Repayment of Planning Grant (Action Item)** - Mr. J.D. McDonald said that Charleston Town is asking that the Water Quality Board revoke the repayment condition on its previously authorized \$34,000 Planning Advance and convert the advance to a grant. Mr. McDonald recalled that approximately 2 years ago, federal funds were made available for some of the 2002 Olympic venues. Congress appropriated grant funds for the specific purpose of providing sewer service to Soldier Hollow, the Olympic venue for the biathlon event. Charleston Town could have received approximately \$1,100,000 of the grant to help fund the construction of its own collection system. To this end, the Water Quality Board authorized a Planning Advance to the Town to fund an in-depth wastewater collection and disposal

feasibility study.

Mr. McDonald said that the Town Council went through a great deal of effort to convince its citizens that the project was a worthwhile endeavor. A number of meetings and hearings were held to provide information on the project and seek the citizens' input. Mr. McDonald said that a final vote held after completion of the facility plan resulted in 72 (55%) voting against the project and 59 (45%) voting in favor of the project.

Mr. McDonald said that Charleston is a small town that does not have a sewer system to generate revenue to repay the Planning Advance. Any repayment would have to be funded from the Town's limited general fund. The Town's general fund, which receives approximately \$60,000 per year in property and sales tax, cannot reasonably sustain an expense of this magnitude. He said that it is the staff's recommendation that the \$34,000 Planning Advance previously authorized to Charleston Town be converted to a grant.

Charleston Mayor John Whiting said that he appreciated the Board's patience on the project. He said that the Town Council and engineer put forth a great deal of effort to make the project a reality. He noted however, that the Town had committed to its citizens early on that they would have the ultimate decision on the project. Mayor Whiting said that growth was a key issue on the final vote for the project. He discussed the financial position of the Town and the lack of funds to repay the Planning Advance.

Mayor Cushing said that he felt that a city had a certain amount of responsibility when they set a course and incur debt.

The Board discussed several aspects of the project, including the issue of wanting to encourage good planning. Ms. Bunker suggested that the Board not require repayment until such time as the Town proceeded with a project, as has been done with other towns in the past. The Board discussed this issue further.

**Action Taken: Ms. Bunker moved that the \$34,000 Planning Advance previously authorized to Charleston Town be converted to a grant with the condition that if the Town was to move forward with a wastewater project in the future that the advance be repaid at that time. The motion was seconded by Mr. Williams and unanimously carried.**

3. **Fairview City (First Hearing)** - Mr. J.D. McDonald briefed the Board on the proposed project as outlined under Tab 3 of the Board's Packet. He said that the City of Fairview is requesting assistance from the Water Quality Assistance Program in the amount of \$4,352,300 to assist in the construction of a wastewater collection and treatment system for the City. He recalled that approximately 18 months ago, the City received a Planning Advance from the Board to conduct facility planning. He said that facility planning is now complete. The project is currently ranked 15<sup>th</sup> on the Wastewater Project Priority list.

Mr. McDonald said that the total project cost is estimated at \$7.3 million. In order to be affordable, the project will require substantial participation from the Water Quality Board in the form of grants. Mr. McDonald said that the City has been working closely with the local health department to address the problem of inadequately functioning onsite disposal systems. He said that individual systems are being replaced at a rate of about two systems per month. Mr. McDonald discussed the alternatives that were evaluated for providing sewer service for the City. He said that the preferred alternative was a gravity collection system with City-owned aerated treatment lagoons and land application for final effluent disposal.

Mr. McDonald discussed the City's current efforts to secure funding from other sources, including the Permanent Community Impact Board (PCIB) and the Rural Development Administration (RDA). Ms. Hess said that it appears that the RDA may be able to provide a \$1,500,000 grant and \$75,000 loan, but that these funds cannot be committed until October 2000. Ms. Hess noted that Fairview has also been authorized an EPA Rural Community Hardship Grant in the amount of \$290,700. Ms. Hess discussed potential funding scenarios as outlined in the staff's feasibility report.

Fairview Mayor Ronald Giles discussed the need for the project and issues involving potential growth, both inside and outside the City limits. Ms. Bunker and the Mayor discussed the potential impact of the Highway 89 "Heritage Highway" designation and the Scenic Byway designation of State Highway 31.

Chairman Shaw asked if the City's citizens had been made aware of the problem. Mayor Giles said that they had, and that there has been a positive attitude about the proposed project.

Mr. Williams excused himself from the meeting.

### **ENFORCEMENT UPDATE**

1. **Kennecott Pipeline Spill** - Mr. Gayle Smith discussed the Notice of Violation and Settlement Agreement as outlined under Tab 4 of the Board's Packet. He said that the violation occurred at Kennecott's smelter operations on the north end of the Oquirrh Mountains. He said that following a pipeline break in late 1999, the discharge flowed into wetlands on Kennecott's property and eventually out Kennecott's 008 outfall to the Great Salt Lake. Mr. Smith said that the resultant outflow violated NPDES permit limits. As a result, staff issued a Notice of Violation and Order on December 6, 1999. Mr. Smith said that since that time, staff has negotiated a Settlement Agreement with the Company (Tab 4). Mr. Smith said that as part of the agreement, Kennecott has agreed to pay a penalty in the

amount of \$27,000. The Company has also agreed to fund a mitigation project in the amount of \$75,000 which will provide funding to USU for onsite septic tank training education.

**OTHER BUSINESS**

- 1. Task Force Recommendations for Ground Water Regulation of Radioactive Waste Disposal Facilities and Uranium Mills** - Mr. Ostler introduced Mr. Bill Sinclair, Director of the Division of Radiation Control (DRC). Mr. Ostler briefed the Board on issues regarding the regulation of radioactive waste disposal facilities and uranium mills. He said that in the past there has been a dual and sometimes triple regulatory approach in this area. He explained the overlapping regulatory responsibilities of the federal Nuclear Regulatory Commission, the state Division of Radiation Control and the Division of Water Quality. He said that the staff of the Department of Environmental Quality have been working with the legislature and a stakeholder task force to develop a recommended approach to increase the efficiency of the regulatory effort. With respect to groundwater regulation, Mr. Ostler said that the approach would, under the authority of the Water Quality Act, designate the Executive Secretary of the DRC as the Executive Secretary of the Water Quality Board for the purpose of administering the Water Quality Act for those identified radioactive waste disposal facilities and uranium mills. Mr. Ostler discussed the advantages of the proposed approach.

Mr. Sinclair said that the final task force recommendations have been completed and will now be forwarded to Dr. Nielsen for discussion and finalization. He said that copies of the written recommendations will be available later in the day. Mr. Sinclair said that following department approval, the proposal will then be forwarded to the Governor's Office.
- 2. Ashley Valley's Compliance Schedule Extension** - Ms. Kim Shelly said that as a result of past permit violations, the Ashley Valley Sewer Management Board (AVSMB) is under a Stipulation and Consent Order to complete construction and begin operation of a new mechanical wastewater treatment plant to replace their existing lagoon system. She said that AVSMB has met all of the requirements of the Order to date. However, AVSMB has recently learned that their construction company is behind schedule on construction of the new facility. As a result, they request that the completed construction deadline of November 9, 2000 be extended to February 9, 2001 and that the deadline of February 9, 2001 to attain full operational status be extended to May 9, 2001. She said that the basis for requesting the time extension is due to the contractor's inability to complete the project on schedule due to problems related to labor shortages in the Vernal area, which was

beyond the control of the contractor. Ms. Shelly said that staff believes this is a reasonable request and recommends approved by the Water Quality Board.

**Action taken:**           **It was moved by Mr. Adams, seconded by Dr. Kochenour and unanimously carried to approve AVSMB's request to extend the completed construction deadline of November 9, 2000 to February 9, 2001 and that the deadline of February 9, 2001 to attain full operational status be extended to May 9, 2001.**

3.   **305(b) Report to Congress: The status of Utah's Waters** - Mr. Tom Toole gave a slide presentation summarizing the state's 305(b) report. He said that congress requires each state to report every 2 years on the status of their water quality. An Executive Summary of the report is included under Tab 5 of the Board's Packet.
4.   **Introduction of Staff** - Mr. Kiran Bhayani, Manager of the Design Evaluation Section, introduced new staff member Mike Hansen to the Board. He said that Mr. Hansen would be working on onsite wastewater disposal issues for the Division.

**NEXT MEETING**

The next meeting of the Board was tentatively scheduled to be held on September 15, 2000 in Salt Lake City.

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K. C. Shaw, Chairman